

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ELWOOD BLANTON

PLAINTIFF

VS.

CAUSE NO.: 3:21-cv-17-HTW-LGI

CRACKER BARREL OLD COUNTRY STORE, INC.

DEFENDANTS

PLAINTIFF REQUESTS TRIAL BY JURY

COMPLAINT

COMES NOW Plaintiff, Elwood Blanton (herein sometimes "Plaintiff"), and files this, his cause of action against Cracker Barrel Old Country Store, Inc. (herein sometimes "Cracker Barrel") and states as follows, to-wit:

PARTIES

(1)

Elwood Blanton is an adult resident citizen of Rankin County, Mississippi.

(2)

Cracker Barrel Old Country Store, Inc. is a Tennessee corporation qualified to do and doing business within the State of Mississippi. Cracker Barrel operates a business/restaurant known as The Cracker Barrel Old Country Store at 410 Riverwind Dr., Pearl, Mississippi 39208. Cracker Barrel may be served with process herein by service upon its registered agent for service of process, C T Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

JURISDICTION

(3)

This Court has original jurisdiction of this matter on account of complete diversity of citizenship between the parties as contemplated by 28 USCA §1332. The case is one of premises liability. The amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

VENUE

(4)

This incident giving rise to this cause occurred in Rankin County, Mississippi, and venue is proper in this Honorable Court.

FACTUAL STATEMENT

(5)

On or about the June 17, 2018, Plaintiff was a business invitee on the premises of the Cracker Barrel restaurant situated at 410 Riverwind Dr., Pearl, Mississippi 39208. As he was present in the restaurant as an invitee he was in the process of taking a seat at a table provided for patrons of the restaurant. As he was taking his seat, Plaintiff stepped on a shard of glass which penetrated his shoe and became embedded in the bottom of his left foot. The stabbing of the glass into Plaintiff's foot was proximately caused by the negligence of Cracker Barrel in failing to maintain its premises in a reasonably safe condition for its invitees. Prior to the Plaintiff being shown to a table on the premises of Cracker Barrel, dishes and glasses utilized in serving food at the Cracker Barrel had fallen to the floor and some or all of the dishware had broken in pieces. Prior to the entry of Plaintiff onto the premises of Cracker Barrel, employees of Cracker Barrel had endeavored to remove the broken dishware from the floor of the restaurant. Unbeknownst to Plaintiff, these employees of Defendant Cracker Barrel had negligently caused or allowed the

broken glass which penetrated Plaintiff's foot to remain on the floor in a position which was hidden from Plaintiff's view as he was taking his seat. This dangerous condition which caused Plaintiff's injury existed on the premises of Cracker Barrel and was known or should have been known to Cracker Barrel as the said dangerous condition was actually created by the negligence of Cracker Barrel's employees in failing to properly remove the broken dishware from the floor of its restaurant including the shared dangerous glass which entered Plaintiff's foot. In spite of having ample time to address the consequences of the condition created through the negligence of its employees, nonetheless, Cracker Barrel failed to correct or remedy the said dangerous condition and likewise failed to provide any warning of the condition to Plaintiff and other business invitees using the premises. The negligence of Cracker Barrel is the sole proximate cause of the damages and injuries to the Plaintiff as described herein. At all times herein Plaintiff was exercising due care for his own safety.

DAMAGES

(6)

As a proximate result of the negligence of Cracker Barrel aforesaid, Elwood Blanton sustained serious, permanent and painful injuries. He has incurred and will continue to incur medical expenses related to the injury suffered as a result of the negligence of Cracker Barrel. His medical treatment continues and its full extent in the future is not presently known. He has endured, endures and will continue to endure pain and suffering. He has lost enjoyment of life. He has a permanent impairment. He has lost wages and lost wage earning capacity.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment of and from Defendant Cracker Barrel in an amount in excess of \$75,000.0 exclusive of interest and costs but in no event to exceed the sum of \$500,000.00 plus all costs and pre-and post-judgment interest

as may be determined.

RESPECTFULLY SUBMITTED this the 7th day of JANUARY, 2021.

ELWOOD BLANTON

BY: 
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ATTORNEYS FOR PLAINTIFF

SERVICE INSTRUCTIONS

Service in this cause may be had upon the Defendant Cracker Barrel Old Country Store, Inc. by service upon its registered agent for service of process, C T Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.